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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/631,238	08/02/2000	Catherine Lin-Hendel	LH013	8086
35070	7590	07/28/2008		
ANATOLY S. WEISER 3525 DEL MAR HEIGHTS ROAD, #295 SAN DIEGO, CA 92130			EXAMINER DESHPANDE, KALYAN K	
			ART UNIT 3625	PAPER NUMBER
			MAIL DATE 07/28/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

09/631,238

**Applicant(s)**

LIN-HENDEL, CATHERINE

**Examiner**

Kalyan K. Deshpande

**Art Unit**

3625

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 April 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5, 7-11 and 20-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7-11 and 20-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/C2)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Prosecution History Summary***

- Claims 1-5, 7-11 and 20-30 are pending.
- Claims 6 and 12-19 have been cancelled.

### ***Response to Amendments***

No amendments to the claims have been submitted with the response submitted on April 17, 2008.

### ***Response to Arguments***

Applicant's arguments with respect to the pending claims have been considered but are not persuasive in part. Applicant argues 1) the present claims are directed towards statutory subject matter under 35 U.S.C. 101, 2) the claims as recited are definite and satisfy the requirements of 35 U.S.C. 112 2nd paragraph, 3) Schileru-Key and Mona fail to teach "means for displaying to the viewer, in response to receipt from the viewer of a selection of the first object in any view of the plurality of views, the first object in a plurality of still photographs each still photograph of the plurality of still photographs taken from a different angle of a plurality of different angles around said object, the different angles being equally spaced angles 360 degrees around said object to enable the viewer to view said first object from 360 degrees around said first object and enabling said object to appear to rotate on the display device", and 4) Schileru-Key and Mona fail to teach "command buttons enabling the viewer to virtually move both around the room and around said first object when said first object is displayed in the plurality of different still photographs".

In response to Applicant's argument the present claims are directed towards statutory subject matter under 35 U.S.C. 101, Examiner respectfully disagrees. Examiner Gart previously asserted that the present claims invoke 35 U.S.C. 112 6<sup>th</sup> paragraph means-plus-function type limitations. As such, the claims fail to set forth any structure beyond mere software as noted on page 12 of the specification. Applicant contends that the same citation provided by Examiner Gart further illustrates proper structures to render the claims satisfactory under 35 U.S.C. 101. Examiner is confused as to Applicant's arguments in that the cited portion of page 12 by Examiner Gart clearly explains that the present invention requires software to be implemented (illustrated by the sentence "the invention is implemented using software..."), whereas the cited portion by the Applicant only suggests that the present invention can be used on a physical structure. Examiner maintains that the possibility that the present invention be used on a physical structure does not provide the requisite structure to be rendered statutory subject matter under 35 U.S.C. 101. As such, Examiner maintains the previously asserted 35 U.S.C. 101 rejection.

In response to Applicant's argument the claims as recited are definite and satisfy the requirements of 35 U.S.C. 112 2nd paragraph, Examiner agrees. Examiner finds this argument persuasive and withdraws the previously asserted 35 U.S.C. 112 2<sup>nd</sup> paragraph rejection.

In response to Applicant's argument Schileru-Key and Mona fail to teach "means for displaying to the viewer, in response to receipt from the viewer of a selection of the first object in any view of the plurality of views, the first object in a plurality of still

photographs each still photograph of the plurality of still photographs taken from a different angle of a plurality of different angles around said object, the different angles being equally spaced angles 360 degrees around said object to enable the viewer to view said first object from 360 degrees around said first object and enabling said object to appear to rotate on the display device", Examiner respectfully disagrees. Mona teaches the "shockwave section allows you to pick up and rotate sculptures so that you can get a close-up, 360 degree view of the details" (Mona: page 2, paragraph 2). Applicant concedes that Mona teaches this. As such, Mona teaches that a still photograph from every angle of an object is provided. The summation of all of these still photographs renders a 360 degree view of the object. Applicants' argue that this is not the same as "equally spaced angles", though this argument is confusing. If all of the angles are available such that they provide a 360 degree view, then all angles, including equally spaced angles must be provided. This argument does not require an inherency argument. All angles are being provided in order to render a 360 view, including equally spaced angles. Applicant has failed to address this argument that was provided by Examiner Gart.

In response to Applicant's argument Schileru-Key and Mona fail to teach "command buttons enabling the viewer to virtually move both around the room and around said first object when said first object is displayed in the plurality of different still photographs", Examiner respectfully disagrees. Schileru-Key explicitly teach "command buttons enabling the viewer to virtually move both around the room and around said first object when said first object is displayed in the plurality of different still photographs"

(Schileru-Key: Fig. 11, "1100"). Applicant specifically argues that this citation fails to explicitly teach "...and around said first object when said first object is displayed in the plurality of different still photographs" and argues that Schileru-Key fails to teach this feature specifically in column 5 lines 23-26 and column 10 lines 28-53. However, in Schileru-Key column 10 lines 9-26, it is explicitly taught that if a specific object of interest appears in the viewer, the user can select the region of interest and the stream set is set to run. Thus, Schileru-Key explicitly teach this limitation and it appears that Applicant has mistakenly overlooked this teaching in column 10 lines 9-26.

***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

**Claims 1-5, 7-11 and 20 are rejected under 35 U.S.C. 101 as being directed towards non-statutory subject matter.**

Claims 1 and 20 set forth means-plus-function type limitations. The specification as originally filed on page 12 recites:

"The present invention is implemented using software which can be written in many programming languages, or implemented with many web-page generation tools."

Therefore it can be assumed that the means-plus-function type limitations are directed to software per se and does not fall within any of the categories of patentable subject matter set forth in §101.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1-5, 7-11 and 20-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schileru-Key (U.S. Patent No. 6,580,441) in view of Mona (PTO-892, Ref U).**

Referring to claim 1. Schileru-Key discloses a system for displaying galleries, showrooms, stores or malls on-line, comprising:

means for displaying on an on-line display device to a viewer a plurality of views of at least one room having a first object therein, wherein the means for displaying the plurality of views includes a data packet storing the plurality of views of the at least one room (Schileru-Key: column 13, lines 11-22); and,

command buttons enabling the viewer to virtually move both around the room and around said first object when said first object is displayed in the plurality of different still photographs (Schileru-Key: Fig. 11, "1100").

Mona discloses a system, comprising:

means for receiving from the viewer one or more selections of objects in the at least one room during displaying of any view of the plurality of views of the at least one room to the viewer (Mona: page 2, paragraph 1, "The 'Shockwave' section allows you to pick up and rotate sculptures so you can get a close-up, 360-degree view of the details");

means for displaying to the viewer, in response to receipt from the viewer of a selection of the first object in any view of the plurality of views, the first object in a plurality of still photographs each still photograph of the plurality of still photographs taken from a different angle of a plurality of different angles around said object, the different angles being equally spaced angles 360 degrees around said object to enable the viewer to view said first object from 360 degrees around said first object and enabling said object to appear to rotate on the display device (Mona: page 2, paragraph 1).

At the time of invention it would have been obvious to a person of ordinary skill in the art to have modified the system of Schileru-Key to have including the teachings of Mona in order to allow users to get a close up, 360-degree view of product details (Mona: page 2, paragraph 1).

Referring to claims 2-5. Schileru-Key further discloses a system wherein the at least one room is a gallery, showroom, store or mall (Schileru-Key: abstract).



Referring to claim 7. Schileru-Key further discloses a system wherein at least one still photograph is identified by a unique frame address (Schileru-Key: Fig. 4).

Referring to claims 8-9. Schileru-Key further discloses a system wherein the displaying means include at least video and audio (Schileru-Key: column 2, lines 10-19).

Referring to claim 10. Schileru-Key further discloses a system wherein each object in the data packet is assigned a unique identification indexed by an area said each object occupies in the still photograph (Schileru-Key: Fig. 11).

Referring to claim 11. Schileru-Key further discloses a system wherein at least one link is assigned to said object, thereby enabling detailed information regarding the object to be retrieved from an external database for presentation to the viewer (Schileru-Key: column 12, line 63 to column 13, line 2).

Referring to claim 20. Claim 20 contains similar limitations as set forth above. Claim 20 is rejected under the same rationale as set forth above.

Referring to claims 21-30. Claims 21-30 contain similar limitations as set forth above. Claims 21-30 are rejected under the same rationale as set forth above.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kalyan K. Deshpande whose telephone number is (571)272-5880. The examiner can normally be reached on M-F 8am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Smith can be reached on (571) 272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jeffrey A. Smith/  
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/KKD/